

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Clerk's Minutes

Before the Honorable Chief Judge William P. Johnson

Case No.: CR18-2945 WJ

Date: 7/18/2023

Parties: USA v. Leveille, et al.

Courtroom Clerk/Law Clerk: R. Garcia/none

Court Reporter: M. Loughran

Interpreter: N/A

Type of Proceeding: Hearing re Order on Special Jury Questionnaire and Enlarged Jury Panel (Doc. 840).

Place of Court: Albuquerque

Total time in Court: 1 hour and 32 minutes

Evidentiary Hearing: NO

Attorneys Present for Plaintiff(s):

Kimberly Brawley and Jackson Hall

Attorneys Present for Defendant(s):

Aric Elsenheimer, Angelica Hall, Stand-by counsel Thomas Clark Siraj Wahhaj, Donald Kochersberger, Marshal Ray, Justine Fox-Young, and Stand-by counsel Joseph Shattuck for Lucas Morton

Proceedings:

9:09 Court in session; counsel enter appearances; defendant present.

The Court asks counsel how many jurors are to be summonsed to appear; counsel request that 200 jurors be summonsed for jury selection; Court will summons 200 jurors for jury selection.

The Court notes that normally, Government receives 6 peremptory challenges and the defendant(s) receive 10; asks if counsel have given any thought to the number counsel peremptory challenges each party would request; counsel all agree to get back to the Court on the issue; Court agrees.

The Court takes-up Government's objections re proposed questionnaire; Ms. Brawley addresses the Court; Court conducts colloquy with parties re questions 19, 20, and 21 – no objection from parties to proposed questions 19, 20, 21; Court conducts colloquy with parties re question 25 – no objection from parties to proposed question 25; Court conducts colloquy with parties re question 34 – no objection from parties re proposed question 34; Court conducts colloquy with parties re question 36 – Ms. Fox-Young notes Judge

Browning case for Court to review (USA v. Deleon case docket numbers 1408-2 and 1470); Court will review Judge Browning's questionnaire for reference on question 36 and will reserve ruling; Court conducts colloquy with parties re questions 38 through 40 – Court will take questions 38 through 40 under advisement.

The Court takes-up defense objections re proposed questionnaire; Ms. Fox-Young addresses the Court; Court conducts colloquy with parties re question 4; Ms. Fox-Young suggest a case summary to be included in the questionnaire; Court conducts colloquy with parties re questions 26 through 29; Court conducts colloquy with parties re question 34; Court conducts colloquy with parties re question 35; Court conducts colloquy with parties re questions 46 and 47; Court conducts colloquy with parties re questions 48 through 53; Court conducts colloquy with parties re question 58, Court conducts colloquy with parties re question 59; Court conducts colloquy with parties re question 60; Court addresses topic of a witness list being included in the questionnaire – government has no objection to a consolidated witness list being included. Ms. Fox-Young requests meetings with clients next week before Daubert hearings.

The Court will take a break while counsel confer re the need for a meeting or meetings next week; Court suggests meeting in the afternoons as an option.

10:35 The Court takes a short break.

10:52 Court back in session.

The Court notes tomorrow's hearing will start at 9:30; counsel will meet with clients from 8:30 to 9:30. The Court ask Ms. Fox-Young if she would like to submit supplemental questions, including a case summary; Ms. Fox-Young will do that within the next 24 hours; Court directs parties to each submit proposed summaries, if they can't agree on a joint summary,

Mr. Fox-Young addresses CIPA material; requests an ex parte conference on Wednesday of next week after expert Cohen and a hearing on defendant's motion to compel; Mr. Hall believes the motion to compel is not ripe to be heard until the Court can review and possible rule on what has been provided to the Court and then the Court can see what is left; this may render the motion to compel moot; Mr. Hall does not oppose Ms. Fox-Young's suggestion re ex parte conference on Wednesday afternoon.

Ms. Fox-Young notes counsel would like to meet with their clients in the afternoons after Daubert hearings for the balance of the day that remains; Court has no objection; discussion re clothing for defendants;

Marshal directs counsel to bring clothing for the defendants to the downstairs Marshal area.

Mr. Hall mentions the potential need for the Court to have an ex parte conference with the Government as well re CIPA materials; Court will review materials and keep that in mind.

The Court reminds counsel tomorrow's hearing will be in the Bonito courtroom.

10:58 Court in recess.